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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Local Competition and Broadband )  
Reporting )

CC Docket No. 99-301

REPLY COMMENTS OF BELL SOUTH

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") by and through their attorneys, submit the following reply comments in response to the comments filed relating to the *Notice of Proposed Rulemaking* released in the above-captioned proceeding.<sup>1</sup>

Aside from the comments of a few parties,<sup>2</sup> the entities filing comments agreed with the reporting concepts established by the Commission in the *Notice*. The comments merely differ on procedural matters such as how the information should be published,<sup>3</sup> who should be exempt from reporting,<sup>4</sup> the confidentiality of the information,<sup>5</sup> and a few other minor matters. BellSouth repeats its position that, subject to the changes stated in its comments, the Commission should

<sup>1</sup> *In the Matter of Local Competition and Broadband Reporting*, CC Docket No. 99-301, *Notice of Proposed Rulemaking*, FCC 99-283, released October 22, 1999 ("Notice").

<sup>2</sup> Some commenters that disagreed with the periodic mandatory reporting requirements proposed by the Commission argued that information gathering should continue only on a voluntary basis and should only be requested when the Commission needs information to complete a specific task. *See* Comments of AT&T at 3 – 11; Frontier Corporation at 2 – 4.

<sup>3</sup> *See* Comments of the Association for Local Telecommunications Services ("ALTS") at 11 – 12.

<sup>4</sup> *See* Comments of Bell Atlantic at 4 – 5; ALTS at 3 – 5; BellSouth at 2 – 3; SBC Communications at 2.

<sup>5</sup> *See* Comments of Competitive Telecommunications Association ("CompTel") at Section III; ALTS at 11 – 13; Bell Atlantic Mobile, Inc. ("BAM") at 5 – 8.

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continue with its proposal to gather the competitive information in the consistent and comparative format suggested in the *Notice*. BellSouth offers the following comments on other issues raised by commenting entities.

## **I. Issues Raised in Comments.**

With the exception of some comments requesting that the Commission abandon its systematic approach to gathering information, most notably by AT&T, the remaining comments merely took exception to various aspects of the proposed rules. BellSouth disagrees with those commenters who argue against the reporting requirements in the *Notice*. Moreover, BellSouth offers comments regarding some of the changes suggested by others.

### **A. Gathering of Information**

AT&T argues against the reporting requirements proposed in the *Notice*. AT&T states that the benefits obtained from “any information that would be gleaned from the Commission’s proposed expansive inquiry would most certainly be outweighed by its costs.”<sup>6</sup> Specifically, AT&T suggests that “rather than engage in information gathering in the abstract, the Commission should rely on the use of targeted information requests whenever there is a specific issue that needs to be addressed.”<sup>7</sup> This, of course, overlooks the benefits of a consistent standardized approach to obtaining the information. For the information to be meaningful it must be provided consistently in a format that can be compared to previous periods.<sup>8</sup> Moreover, the Commission has a mandated obligation to forbear from regulation that no longer serves the public interest. Part of its analysis to determine whether to forbear from any current regulation is

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<sup>6</sup> AT&T Comments at 4.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> The Commission specifically noted that market conditions and trends affect regulatory policy. *Notice* ¶ 13.

to weigh the competitive effect. Obtaining competitive information on a regularly consistent basis is much more practical than having the information supplied on an ad hoc basis. Additionally, AT&T's proposal that the Commission only obtain information when there is a specific issue to be addressed is shortsighted. In many of the specific issues the Commission is operating on a mandated deadline, *e.g.*, 90 days for a section 271 application. Such deadlines make it difficult for the Commission to obtain the information it needs on a timely basis. A systematic approach, as proposed in the *Notice*, is a much more logical solution.<sup>9</sup>

AT&T also argues that the reporting requirements will place an undue burden on AT&T. This argument seems disingenuous coming from a carrier with the resources of AT&T. Furthermore, the alternative proposed by AT&T, providing targeted information for specific issues, would appear more burdensome than the reporting requirement as proposed in the *Notice*. Indeed, gathering information on an ad hoc basis, as proposed by AT&T, would be more burdensome because carriers would not have developed a standardized process for compiling such information. Accordingly, BellSouth continues to support the Commission's proposed reporting requirements subject to the changes stated in its comments.

#### **B. Publication of the Information**

At least two commenters<sup>10</sup> believe that the publication requirements of the reported information should be different between incumbent local exchange carriers ("ILEC") and competitive local exchange carriers ("CLEC"). These entities believe that CLECs' data should

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<sup>9</sup> Many of the issues that the competitive issues address will be directed at forbearance of various regulations. The 1996 Act establishes that carriers may file a petition for forbearance for those services that meet the forbearance criteria. Thus, the competitive information required in the *Notice* will be beneficial to carriers to determine competitive trends in the market and help them gauge when a petition would be appropriate. *See also Notice* ¶ 3.

<sup>10</sup> ALTS Comments at 11 – 12; Allegiance Telecom, Inc. at 2 - 3.

be reported in the aggregate and that no individual CLEC information should be made public. They contend, however, that ILECs have the “vast majority of lines in any one area,”<sup>11</sup> and release of the ILECs’ information would not damage the ILEC.

The Commission should not publish CLEC information in the aggregate or in any different format than ILECs. While it is true in most cases that ILECs have the majority of certain types of lines, *e.g.*, voice grade lines to end users, the same may not always be the case for broadband lines. Because of the nascent stage of the broadband market, the same logic that ALTS suggests would damage CLECs if their information is released on an individual basis also would apply to ILECs in publication of broadband lines. Thus, no differences should be made in the data publication. Furthermore, the published information should be subject to challenge if a carrier is not reporting an accurate account of its lines.

### **C. Entities that should be Exempt from Reporting**

The comments offered widespread opinions on the carriers that should be exempt from reporting. BellSouth agrees with Bell Atlantic that “requiring only the very largest competing service providers to report will not give the Commission a complete picture of the competitive market.”<sup>12</sup> Indeed, the Commission recognized the importance of obtaining the most complete information available stating that “regulatory policies that are based on incomplete information are less effective than regulation based on an informed evaluation of what is actually happening in the market.”<sup>13</sup> BellSouth continues to believe that the burden of requiring carriers with 10,000 voice grade lines to report is far less than the benefit that will be received from having such carriers report. Once the procedures for collecting this information are in place, it should not be

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<sup>11</sup> ALTS Comments at 12.

<sup>12</sup> Bell Atlantic Comments at 4.

<sup>13</sup> Notice ¶ 13.

taxing on these entities to report on an ongoing basis. Consequently, BellSouth, like Bell Atlantic, believes that the Commission should require all carriers with 10,000 or more voice grade lines to report.<sup>14</sup>

#### **D. Reporting Areas and Confidentiality**

One of the most significant issues discussed in the comments concerned the confidentiality of the information to be reported. As most entities pointed out, the information takes on a greater proprietary nature the smaller the reporting area it covers, *i.e.*, reporting at an MSA level instead of at a state level. This is particularly true for wireless companies, as the location of subscribers by an area less than a state would cause competitive harm.

One commenter, the Office of the Attorney General of the State of Tennessee (“OAG”), however, requested that the Commission require that carriers report the information by county or even zip code. As discussed above, reporting the information at that level would render the information proprietary and therefore would require carriers to file it as confidential. This would actually cause entities such as the OAG to receive less information than if the carriers filed it at a state level.

Bell Atlantic also raised the concern that, absent confidential treatment or aggregation of reported data by the Commission, the reporting on specific entities’ data in a given market or state could reveal proprietary information causing competitive harm. BellSouth continues to

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<sup>14</sup> BellSouth is uncertain why ALTS finds no reason to “quibble” over the number of voice grade lines necessary to report, but contends that the number of broadband lines should be increased to “2,000 or even 5,000 *full* broadband service lines in the nation.” ALTS Comments at 4 – 5. ALTS argues that the Commission should not be concerned with the cut off for the number of voice grade lines that makes a carrier exempt because it can “easily change that determination in the future.” *See id.* It seems the same logic would apply equally for broadband lines. Moreover, ALTS’ request to require only carriers with 2,000 or more *full* broadband lines should be summarily rejected. One-way broadband lines will likely be the significant means by

encourage the Commission to provide confidential treatment where requested by carriers.

Furthermore, by making voice, broadband or wireless data publicly available on an aggregate basis only, the Commission can protect the competitiveness and the confidentiality needs of providers and still maintain its ability to address competitive issues.

## **E. Other Matters**

In addition to the issues discussed above, several commenters expressed opinions about a variety of other matters. BellSouth provides brief comments on these issues.

### **1. Frequency of the Reports**

As with the comments regarding the entities that should be exempt from reporting, the frequency of the reports garnered a wide range of opinions. BellSouth maintains that quarterly reporting would be the most effective time frame for the Commission, especially considering the dynamic nature of the broadband market. BellSouth notes, however, that whatever the period used by the Commission, it should, as tentatively concluded by the Commission in the *Notice*,<sup>15</sup> be the same for both ILECs and CLECs. Accordingly, the Commission should dismiss TRA's request to have ILECs report monthly, while CLECs would report quarterly. Indeed, if either party were to report more frequently, it should be the CLECs. A CLECs' customer base could potentially change significantly from month to month.

### **2. Requirements for Broadband Reporting**

Bell Atlantic points out in its comments that the proposal in the *Notice* for reporting broadband lines would exclude a significant number of entities that provide one-way broadband lines such as asymmetric digital subscriber line ("ADSL") services if they did not also provide at

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which residential customers will obtain broadband services. Accordingly, this information should be reported.

<sup>15</sup> *Notice* ¶ 35.

least 1,000 full broadband lines. BellSouth concurs with Bell Atlantic that the Commission should require carriers that provide more than 1,000 one-way broadband lines to report, regardless of whether they also provide full broadband services. Ignoring these entities will exclude a significant number of carriers that provide broadband services to both residential and business customers. Consequently, this would present an incomplete view of what is occurring in the market.

### **3. Changes in the Report Format**

Various commenters suggested changes to the line items to be reported. BellSouth does not choose to comment on these specific changes here, but does state that in order to decrease the burden of all the reporting entities, the Commission must maintain a consistent reporting format. Most carriers will establish a mechanized system to collect the data for the report. Thus, changes must be kept to a minimum and when changes are necessary the Commission must provide ample notice to the carriers. Additionally, BellSouth believes the report should have adequate room for a carrier to provide written commentary and explanation for items it deems necessary.

### **4. ALTS Request for Collocation Requests**

ALTS request that the Commission add a line which requires ILECs to report the number of “outstanding requests [for collocation] (those requests pending for more than ninety days) for which collocation has not been provided.” This information is outside the scope of the proposed rulemaking, and therefore proper notice has not been presented in this proceeding, and it adds no value in the Commission achieving the goals of the *Notice*. The Commission should reject this suggestion.

## **5. Reporting by Internet Service Providers ("ISP")**

Many of the commenters raised the issue that the *Notice* contemplates ISPs being subject to the reporting requirements. Of those entities addressing the issue, none supported this concept, but instead believed that the carriers that provide the ISPs with the underlying facilities should be the entity reporting the relevant information. BellSouth agrees and supports this position. The Commission should therefore revise its tentative proposal and clarify that ISPs should not be subject to the reporting requirements of the *Notice*.

## **II. Conclusion**

It is clear from the comments that the majority of the industry, including both ILECs and CLECs, believes the Commission should implement a reporting process to monitor competition in both the local and broadband markets. Given this support of the entire industry, the Commission should move forward with the proposals set forth in the *Notice*, subject to modifications requested in BellSouth's comments and reply comments. BellSouth believes that the proposals, along with the requested modifications, will provide the Commission, and the industry, the information needed to monitor what is happening in the marketplace.

Respectfully submitted,

**BELLSOUTH CORPORATION**  
By its Attorneys

  
M. Robert Sutherland  
Stephen L. Earnest

Suite 1700  
1155 Peachtree Street, N. E.  
Atlanta, Georgia 30306-3610  
(404) 249-2608

Date: December 20, 1999



### **CERTIFICATE OF SERVICE**

I do hereby certify that I have this 20th day of December, 1999, served the following parties to this action with a copy of the foregoing ***REPLY COMMENTS OF BELLSOUTH***, reference CC Docket No. 99-301, by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid or by Federal Express, addressed to the parties as set forth on the attached service list.



Lenora Biera-Lewis

SERVICE LIST  
CC Docket No. 99-301

Magalie Roman Salas, Commission Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

**VIA HAND DELIVERY**

International Transcription Service, Inc.  
1231 20<sup>th</sup> Street, NW  
Washington, DC 20036

**VIA HAND DELIVERY**

Ms. Terry Conway  
Common Carrier Bureau  
Industry Analysis Division  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

**VIA FEDERAL EXPRESS**

Mr. Andrew Wise  
Cable Services Bureau  
Policy and Rules Division  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

**VIA FEDERAL EXPRESS**

Mr. Jerome Stanshine  
Office of Engineering and Technology  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554  
(diskette enclosed)

**VIA FEDERAL EXPRESS**

Mr. Walter Strack  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554  
(diskette enclosed)

**VIA FEDERAL EXPRESS**

International Transcriptikon Service, Inc.  
1231 20 Street, NW  
Washington, DC 20036  
(diskette enclosed)

**VIA FEDERAL EXPRESS**

Robert W. McCausland  
Robert E. Kelly  
Allegiance Telecom, Inc.  
1100 15<sup>th</sup> Street, NW  
Suite 200  
Washington, DC 20005

Matthew M Polka, President  
American Cable Association  
One Parkway Center  
Suite 212  
Pittsburgh, PA 15220

*Of Counsel*

Eric E. Breisach  
Christopher C. Cinnamon  
Lisa Chandler Cordell  
Beinstock & Clark  
5360 Holiday Terrace  
Kalamazoo, MI 49009

*Attorneys for American Cable Association*

Jonathan Askin  
Emily M. Williams  
Association for Local Telecommunications  
Services  
888 17<sup>th</sup> Street, NW  
Washington, DC

Arthur H. Stuenkel  
Arkansas Bart No. 79112  
Arkansas Public Service Commission  
1000 Center Street  
PO Box 400  
Little Rock, AR 72203-0400

Howard J. Symons  
Sara F. Seidman  
Uzoma C. Onyeije  
Susan E. McDonald  
Mintz, Levin, Cohn, Ferris, Glovsky  
And Popeo, PC  
701 Pennsylvania Avenue, NW  
Washington, DC 20004

Mark C. Rosenblum  
Stephen C. Garavito  
James W. Grudus  
AT&T Corp.  
Room 1135L2  
295 North Maple Avenue  
Basking Ridge, NJ 07920

Douglas I. Brandon  
AT&T Wireless Services, Inc.  
1150 Connecticut Avenue, NW  
Suite 400  
Washington, DC 20036

Douglas G. Garrett  
AT&T Broadband and Internet Services  
9197 South Peoria Street  
Englewood, CO 80112

Michael E. Glover  
1320 North Court House Road  
Eighth Floor  
Arlington, VA 22201

*Of Counsel for the Bell Atlantic Telephone Companies*

Lawrence W. Katz  
Donna M. Epps  
1320 North Court House Road  
Eighth Floor  
Arlington, VA 22201

*Attorneys for the Bell Atlantic Telephone Companies*

John T. Scott, III  
Crowell & Moring LLP  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004

*Attorneys for Bell Atlantic Mobile, Inc.*

Carol Ann Bischoff, Executive VP & General Counsel  
Jonathan D. Lee, VP, Regulatory Affairs  
The Competitive Telecommunications Association  
1900 M Street, NW, Suite 800  
Washington, DC 20036

Michael J. Shortley, III  
180 South Clinton Avenue  
Rochester, NY 14646

*Attorney for Frontier Corporation*

George N. Barclay, Associate General Counsel  
Personal Property Division  
Michael J. Ettner, Senior Assistant General Counsel  
General Services Administration  
1800 F Street, NW, Room 4002  
Washington, DC 20405

Snavely King Majoros O'Connor & Lee, Inc.  
1220 L Street, NW  
Suite 410  
Washington, DC 20005

*Economic Consultants for General  
Services Administration*

Thomas R. Parker  
GTE Service Corporation  
600 Hidden Ridge, HQE03J43  
PO Box 152093  
Irving, TX 75015-2092

Gail L. Polivy  
GTE Service Corporation  
1850 M Street, NW  
Suite 1200  
Washington, DC 20036

MediaOne Group, Inc.  
Susan M. Eid, VP, Federal Relations  
Tina S. Pyle, Executive Director for Public Policy  
Richard A. Karre, Senior Attorney  
1919 Pennsylvania Avenue, NW  
Suite 610  
Washington, DC 20006

Daniel L. Brenner  
Neal M. Goldberg  
David Nicoll  
1724 Massachusetts Avenue  
Washington, DC 20036-1969

*Counsel for the National Cable Television Association*

Nextel Communications, Inc.  
Robert S. Foosaner, VP & Chief Regulatory Officer  
Lawrence R. Krevor, Sr. Dir. - Gov. Affairs  
Laura L. Holloway, Dir. - Gov. Affairs  
2001 Edmund Halley Drive  
Reston, VA 20191

Michael Olsen  
Northpoint Communications, Inc.  
222 Sutter Street, 7<sup>th</sup> Floor  
San Francisco, CA 94108

Ruth Milkman  
Valerie Yates  
Lawler Metzger & Milkman, LLC  
1909 K Street, NW  
Suite 820  
Washington, DC 20006

National Rural Telecom Association  
Margot Smiley Humphrey  
Koteen & Naftalin, LLP  
1150 Connecticut Avenue, NW  
Suite 1000  
Washington, DC 20036

National Telephone Cooperative Association  
L. Marie Guillory  
Jill Canfield  
4121 Wilson Boulevard  
10<sup>th</sup> Floor  
Arlington, VA 22203

Benjamin H. Dickens, Jr.  
Michael B. Adams, Jr.  
Blooston, Mordkofsky, Jackson, & Dickens  
2121 L Street, NW  
Washington, DC 20037

*Attorneys for Omnipoint Communications, Inc.*

OPASTCO  
Stuart Polikoff  
Stephen Pastorkovich  
21 Dupont Circle NW  
Suite 700  
Washington, DC 20036

Mary McDermott  
Brent H. Weingardt  
Todd B. Lantor  
Personal Communications Industry Association  
500 Montgomery Street  
Suite 700  
Alexandria, VA 22314

Julie A. Kaminski  
Deputy Chief Counsel - Telecommunications  
Prism  
1667 K Street, NW  
Suite 200  
Washington, DC 20006

Alfred G. Richter, Jr.  
Roger K. Toppins  
Mark P. Royer  
One Bell Plaza  
Room 3024  
Dallas, TX 75202

*Attorneys for SBC Communications Inc.*

Sprint Corporation  
Leon M. Kestenbaum  
Jay C. Keithley  
Norina T. Moy  
1850 M Street, NW  
Suite 1110  
Washington, DC 20036

Ken Pfister, President  
TELEC Consulting Resources, Inc.  
909 N. 96<sup>th</sup> Street  
Suite 3  
Omaha, NE 68114-2508

Susan J. Bahr  
Law Offices of Susan Bahr, PC  
PO Box 86089  
Montgomery Village, MD 20886-6089

*Attorney for TELEC Consulting Resources, Inc.*

Laurence E. Harris  
David S. Turetsky  
Terri B. Natoli  
Carolyn K. Stup  
Teligent, Inc.  
8065 Leesburg Pike, Suite 400  
Vienna, VA 22182

Philip L. Verveer  
Gunnar D. Halley  
Willkie Farr & Gallagher  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20036

*Attorneys for Teligent, Inc.*

L. Vincent Williams  
Office of the Attorney General  
State of Tennessee  
425 5<sup>th</sup> Avenue North  
Nashville, TN 37243

Charles C. Hunter  
Catherine M. Hannan  
Hunter Communications Law Group  
1620 I Street, NW  
Suite 701  
Washington, DC 20006

United States Telecom Association  
Lawrence E. Sarjeant  
Linda Kent  
Keith Townsend  
1401 H Street, NW  
Suite 600  
Washington, DC 20005

United States Telecom Association  
John W. Hunter  
Julie E. Rones  
1401 H Street, NW  
Suite 600  
Washington, DC 20005

US West Communications, Inc.  
Dan L. Poole  
Suite 700  
1020 19<sup>th</sup> Street, NW  
Washington, DC 20036

US West Communications, Inc.  
Vincent C. DeGarlais  
Suite 700  
1020 19<sup>th</sup> Street, NW  
Washington, DC 20036

*Of Counsel*

*Its Attorney*

Lawrence A. Walke  
Counsel, Legal and Regulatory Affairs  
Winstar Communications, Inc.  
1615 L Street, NW  
Suite 1260  
Washington, DC 20036

Patrick J. Donovan  
Jeanne W. Stockman  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW  
Suite 300  
Washington, DC 20007

*Counsel for Winstar Communications, Inc.*